

**Remarks/Arguments:**

Prior to this amendment, the pending claims in this application were 22-103.

Claim 103 had been withdrawn from consideration. To expedite prosecution of this application, claim 103 is cancelled without prejudice or disclaimer of the subject matter therein. Applicant reserves the right to prosecute the subject matter of claim 103 in a divisional application.

Also to expedite prosecution of this application, claims 22-36, 53-59, 61-65, 67-71, 73-78, 80-83, 85-89, 91-96, and 98-101 are cancelled without prejudice or disclaimer of the subject matter therein. Each of those claims relate to a carrier configured to hold a container. Applicant reserves the right to prosecute the subject matter of claims 22-36, 53-59, 61-65, 67-71, 73-78, 80-83, 85-89, 91-96, and 98-101 in a continuation application.

Each of the claims remaining in this application (claims 37-52, 60, 66, 72, 79, 84, 90, 97, and 102) is directed to a container system including a container and a carrier. Accordingly, Applicant will prosecute claims directed to a container system in this application and reserves the right to prosecute claims directed to additional subject matter in a continuation and/or divisional application.

Claims 37, 60, 72, 79, 84, 90, 97 and 102 have been amended. No new matter is introduced therein.

Each of the pending claims 37-52, 60, 66, 72, 79, 84, 90, 97, and 102 is addressed separately in the following paragraphs for the Examiner's convenience.

**Claim 37**

Claim 37 has been amended to clarify the relationship between the container of the modular container system and the carrier that receives the container. Specifically, claim 37 has been amended to recite that the carrier comprises a "body receiving the container," that the arm is "for reciprocal extension along a longitudinal axis of said arm," that the arm is "engaging said door of said container," and that "said reciprocal extension of said arm" is "reciprocating said door of said container along said path between said opened and closed positions."

A. Brochure

Claim 37 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on the SHARPSCART Foot Pedal Cart Order No. 8938FP shown on page 16 of the SHARPSCART Brochure ("Brochure" or "SHARPSCART Brochure").

Pages 3-4 of the Office Action propose an interpretation of the apparatus shown in the Brochure. The Office Action specifically proposes that the "arm" recited in claim 37 is considered to be either of the two stainless steel bars extending transversely over the opening of the inner container.

The Office Action contends that the "arm" is coupled to the body for reciprocal extension along an axis of the arm and that the axis of the arm is "the horizontal axis transverse to the length of the stainless steel bars." However, claim 37 now defines the axis along which Applicant's claimed arm reciprocally extends as a longitudinal axis of the arm, thereby distinguishing the specific structure of the apparatus shown in the Brochure. Accordingly, amended claim 37 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

Amended claim 37 further recites: "said axis of said arm being oriented substantially parallel to said path of said door of said container." Because amended claim 37 now recites a "longitudinal axis," the horizontal, transverse axis relied upon in the Office Action does not meet these recitations.

For all of the foregoing reasons, amended claim 37 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Marek in view of Mosior

Claim 37 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior (U.S. Patent No. 5,531,346).

Marek discloses a waste container used to hold cardboard boxes. A door opening 48 in cover assembly 38 provides access to the container. There is a slidable door 50 in the top of the container. A down-turned flange 56 on the door 50 provides for attachment of a door-opening cable 58 and door-closing springs 60 and 62 which are anchored to cover assembly 38.

(col. 2, lines 9-51). The springs position the door into registry with the door opening. The cable is adapted to pull the door in opposition to the springs.

The Office Action contends that it would have been obvious to add Mosior's inner container to the carrier of Marek in order to provide both a carrier and an inner container. Applicant respectfully disagrees. Amended claim 37 recites "a container having a door," and amended claim 37 also reads, in part: "a carrier comprising a body receiving the container."

Both the Marek and Mosior references are containers. There is no suggestion in either of those references that the container in Mosior would be useful in the Marek container. In fact, Marek teaches away from the receipt of a container such as the one shown in Mosior. Marek has its own slidable door 50. Marek is instead designed to hold waste disposal boxes (col. 1, lines 23-24) having flaps that are "folded down against the outside of the box while it is inside the container." (col. 3, lines 7-10). For these reasons alone, amended claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

The Office Action interprets flange 56 of Marek as an elongated arm and contends that it is adapted for reciprocal extension along an axis of the arm; namely, a horizontal axis transverse to the length of flange 56. However, a horizontal axis transverse to the length of flange 56 is not an axis of flange 56. Amended claim 37 recites that the axis is a longitudinal axis of the arm. Because flange 56 in Marek is oriented transverse to the longitudinal axis of the arm, even the hypothetical combination of Mosior and Marek fails to meet every limitation of claim 37. For these reasons alone, amended claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

Claim 37 has also been amended to recite: "said arm engaging said door of said container." There is no disclosure or suggestion in either Marek or Mosior that the flange 56 of Marek should or even could be used to engage the door of Mosior.

Amended claim 37 also recites: "said axis of said arm being oriented substantially parallel to said path of said door of said container." Since amended claim 37 now recites a "longitudinal axis," the horizontal, transverse axis relied upon by the Office Action's interpretation of Marek does not meet these recitations.

Since neither Marek nor Mosior, even when combined as proposed in the Office Action, teaches or suggests all of the claim limitations of amended claim 37, and for all of the other

reasons stated above, amended claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

C. Sosan in view of Mosior

Claim 37 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

As acknowledged in the Office Action, Sosan does not disclose an inner container. Mosior discloses a waste container having a top with a slidable closure. The Office Action contends that it would have been obvious to add Mosior's inner container to the carrier in Sosan, in order to provide both a carrier and an inner container. Applicant respectfully disagrees. First, amended claim 37 recites "a container having a door." Second, amended claim 37 also reads, in part: "a carrier comprising a body receiving the container."

Both the Sosan and Mosier references are containers. Sosan is not a carrier. There is no suggestion in either reference that the container of Mosior would be useful in the Sosan container. In fact, Sosan teaches away from the receipt of a container such as that shown in Mosior. Sosan has its own door 22. Sosan is designed to hold trash bags that may be inserted and removed. (Abstract) For these reasons alone, amended claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

Claim 37 has also been amended to recite: "said arm engaging said door of said container." There is no disclosure or suggestion in either Sosan or Mosior that push rod 46 of Sosan should or even could be used to engage the door of Mosior.

Since neither Sosan nor Mosior, even when combined as proposed in the Office Action, teaches or suggests all of the claim limitations of amended claim 37, and for all of the other reasons stated above, amended claim 37 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 38**

Claim 38 depends from claim 37 and therefore incorporates all features therefrom. It further recites that the "carrier further comprises a flexible member coupled to said arm, wherein said arm is reciprocally extended or retracted along said axis by a tension applied to said flexible member."

**A. Marek in view of Mosior**

Claim 38 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior. For the reasons stated above with respect to amended claim 37, dependent claim 38 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

**B. Sosan in view of Mosior**

Claim 38 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to amended claim 37, dependent claim 38 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 39**

Claim 39 depends from amended claim 37 and therefore incorporates all features therefrom. It further recites that the "carrier further comprises a biasing member coupled to said arm to bias said arm toward said extended position or said retracted position, wherein said arm is reciprocally extended or retracted along said axis against said bias of said biasing member."

**A. Brochure**

Claim 39 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. For the reasons stated above with respect to amended claim 37, dependent claim 39 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Marek in view of Mosior

Claim 39 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior. For the reasons stated above with respect to amended claim 37, dependent claim 39 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

C. Sosan in view of Mosior

Claim 39 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to amended claim 37, dependent claim 39 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 40**

Claim 40 depends from claim 39 which, in turn, depends from amended claim 37. Therefore, claim 40 incorporates all features from claim 39 and amended claim 37. Claim 40 further recites that "said biasing member comprises a spring."

A. Brochure

Claim 40 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. For the reasons stated above with respect to amended claim 37 and claim 39, dependent claim 40 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

B. Marek in view of Mosior

Claim 40 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior. For the reasons stated above with respect to amended claim 37 and claim 39, dependent claim 40 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

C. Sosan in view of Mosior

Claim 40 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to amended claim 37 and claim 39, dependent claim 40 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 41**

Claim 41 depends from claim 40 which, in turn, depends from claim 39 and amended claim 37. Therefore, claim 41 incorporates all features from claims 39, 40 and amended claim 37. Claim 41 further recites that "said arm is biased by said biasing member toward said extended position."

A. Brochure

Claim 41 has been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPCART Brochure. For the reasons stated above with respect to amended claim 37 and claims 39, 40, dependent claim 41 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPCART Brochure.

B. Marek in view of Mosior

Claim 41 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior. For the reasons stated above with respect to amended claim 37 and claims 39, 40, dependent claim 41 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

C. Sosan in view of Mosior

Claim 41 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to amended claim 37 and claims 39, 40, dependent claim 41 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 42**

Claim 42 depends from claim 38 which, in turn, depends from amended claim 37. Therefore, claim 42 incorporates all features from claim 38 and amended claim 37. Claim 42 further recites "said flexible member comprises a cable."

A. Marek in view of Mosior

Claim 42 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior. For the reasons stated above with respect to amended claim 37 and claim 38, dependent claim 42 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

B. Sosan in view of Mosior

Claim 42 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to amended claim 37 and claim 38, dependent claim 42 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 43**

Claim 43 depends from claim 42 which, in turn, depends from claim 38 and amended claim 37. Therefore, claim 43 incorporates all features from claims 38, 42 and amended claim 37. Claim 43 further recites that the "carrier further comprises a lever pivotally coupled to said body, wherein tension is applied to said flexible member by actuation of said lever."

A. Marek in view of Mosior

Claim 43 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior. For the reasons stated above with respect to amended claim 37 and claims 38 and 42, dependent claim 43 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior.

B. Sosan in view of Mosior

Claim 43 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior. For the reasons stated above with respect to amended claim 37 and claims 38 and 42, dependent claim 43 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior.

**Claim 44**

Claim 44 depends from claim 43 which, in turn, depends from claims 42, 38 and amended claim 37. Therefore, claim 44 incorporates all features from claims 38, 42, 43 and amended claim 37. Claim 44 further recites that the "carrier further comprises a locking bracket coupled to said body for reciprocation between a locked position, wherein said locking bracket prevents said lever from pivoting to open said door of said container, and an unlocked position, wherein said lever may pivot to open said door of said container."

A. Marek in view of Mosior and further in view of Baker

Claim 44 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker. As acknowledged by the Office Action, the proposed Marek-Mosior combination does not disclose a locking member. The proposed Marek-Mosior combination also does not suggest the use of a locking member. There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine reference teachings. Here, the Office Action appears to have relied upon hindsight by combining three references to arrive at the determination of obviousness. It is impermissible to use the claim invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. The Federal Circuit has stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosure in the prior art to deprecate the claimed invention." *In re Fritch*, 23 USPQ 2d 1780, 1783, 1784 (Fed. Cir. 1992). For this reason alone, claim 44 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

As shown above, the Marek-Mosior combination does not disclose or suggest all of the features of amended claim 37, which features are incorporated into claim 44. Baker also does not disclose or suggest all of the features of claim 44. Since neither the proposed Marek-Mosior combination nor Baker, even when combined as proposed in the Office Action, teach or suggest all of the claim limitations of claim 44, claim 44 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

B. Sosan in view of Mosior and further in view of Baker

Claim 44 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. As acknowledged by the Office Action, the proposed Sosan-Mosior combination does not disclose a locking member. The proposed Sosan-Mosior combination also does not suggest the use of a locking member. The Office Action fails to cite any suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings as proposed in the Office Action. For this reason alone, claim 44 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

As shown above, the proposed Sosan-Mosior combination does not disclose or suggest all of the features of amended claim 37, which features are incorporated into claim 44. Baker also does not disclose or suggest all of the features of claim 44. Since neither the proposed Sosan-Mosior combination nor Baker, even when combined as proposed in the Office Action, teach or suggest all of the claim limitations of claim 44, claim 44 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

**Claim 45**

Claim 45 depends from claim 44 which, in turn, depends from claims 43, 42, 38 and amended claim 37. Therefore, claim 44 incorporates all features from claims 38, 42, 43, 44 and amended claim 37. Claim 45 further recites that "the body of said carrier further comprises a body portion configured to support said container and a hood pivotally coupled to said body portion to pivot between a closed position wherein said hood restrains said container within said body portion and an open position wherein said container may be removed from said body portion."

A. Marek in view of Mosior and further in view of Baker

Claim 45 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker. The Office Action acknowledges that the proposed Marek-Mosior combination does not disclose a "barrier," apparently referring to the hood recited in claim 45. The Office Action contends that it would have been obvious to use the barrier in Baker along with the proposed Marek-Mosier combination. For the reasons stated above with respect to claim 44, claim 45 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

In addition, there is no suggestion to use a pivoting hood in Marek because Marek expressly teaches away from using such a feature. Specifically, Marek states that "a slidable door 50 is used in preference to a hinged cover in order to minimize the possibility of spreading contaminated dust which might result from air currents created by a hinged door." (col. 3, lines 1-4) (emphasis added) Accordingly, for this additional reason, dependent claim 45 is not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

B. Sosan in view of Mosior and further in view of Baker

Claim 45 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 44, claim 45 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

**Claim 46**

Claim 46 is dependent from claim 45 which, in turn, is dependent from claims 44, 43, 42, 38 and amended claim 37. Therefore, claim 46 incorporates all features from claims 38, 42, 43, 44, 45 and amended claim 37. Claim 46 further recites that the "carrier further comprises a lock positioned for locking said hood in said closed position with respect to said body portion."

A. Marek in view of Mosior and further in view of Baker

Claim 46 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 45, claim 46 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

B. Sosan in view of Mosior and further in view of Baker

Claim 46 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 45, claim 46 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

**Claim 47**

Claim 47 depends from claim 46 which, in turn, depends from claims 45, 44, 43, 42, 38 and amended claim 37. Therefore, claim 47 incorporates all features from claims 38, 42, 43, 44, 45, 46 and amended claim 37. Claim 47 further recites that the "lock is lockable by use of a key."

A. Marek in view of Mosior and further in view of Baker

Claim 47 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 46, claim 47 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

B. Sosan in view of Mosior and further in view of Baker

Claim 47 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 46, claim 47 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

**Claim 48**

Claim 48 depends from claim 45 which, in turn, depends from claims 44, 43, 42, 38, and amended claim 37. Therefore, claim 48 incorporates all features from claims 44, 43, 42, 38, and amended claim 37. Claim 48 further recites "said arm extends from said hood for reciprocal movement with respect to said hood."

A. Marek in view of Mosior and further in view of Baker

Claim 48 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 45, claim 48 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

B. Sosan in view of Mosior and further in view of Baker

Claim 48 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 45, claim 48 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

**Claim 49**

Claim 49 depends from claim 45 which, in turn, depends from claims 44, 43, 42, 38, and amended claim 37. Therefore, dependent claim 49 incorporates all features from claims 44, 43, 42, 38, and amended claim 37. Claim 49 further recites "said carrier further comprises a biasing member coupled to said arm and to said hood to bias said arm toward said extended position or said retracted position with respect to said hood, wherein said arm is reciprocally extended or retracted along said axis against said bias of said biasing member."

A. Marek in view of Mosior and further in view of Baker

Claim 49 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 45, claim 49 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Marek in view of Mosior and further in view of Baker.

B. Sosan in view of Mosior and further in view of Baker

Claim 49 has also been rejected under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker. For the reasons stated above with respect to claim 45, claim 49 is also not subject to rejection under 35 U.S.C. § 103(a) as unpatentable over Sosan in view of Mosior and further in view of Baker.

**Claims 50-52**

Applicant notes with appreciation the Examiner's statement that claims 50-52 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully submits that claims 50-52 are allowable in their current form because claim 37, upon which they depend, is allowable as amended herein.

**Claim 60**

Claim 60 has been to recite "a carrier holding said container"; "a body portion at least partially defining a cavity receiving said container"; "a hood portion . . . extending over at least a portion of said container"; and an arm "engaging said door of said container, and said reciprocal movement of said arm reciprocating said door of said container between said opened and closed positions." The amendment to claim 60 clarifies the relationship between the carrier and the container.

A. Marek

Claim 60 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Page 2 of the Office Action rejected claim 60 by contending it could consider Marek to have a hypothetical door of a hypothetical container. Applicant respectfully disagrees in view of the amendments to claim 60. For these reasons alone, Marek does not disclose all of the features recited in amended claim 60 and, for this reason alone, amended claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

Additionally, flange 56 of Marek is not an arm that engages a door of a container that is held by a carrier and does not reciprocate the door of such a container. For this additional reason, amended claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 60 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. Claim 60, as amended, recites that an arm engages the door of a container. None of the transverse bars on top of the carrier, which have been proposed as arms in the Office Action, directly engage the door of the container. Additionally, the SHARPSCART Brochure fails to disclose or suggest an arm coupled to a hood for reciprocal movement with respect to the hood. Therefore, amended claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 60 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan does not disclose an arm that engages the door of a container that is held by a carrier and does not disclose an arm, coupled to a hood, that reciprocates the door of such a container. Therefore, amended claim 60 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 66**

Claim 66 recites, in part, a "body having a substantially hollow wall portion" and a "flexible member extending through an interior of said hollow wall portion."

A. Marek

Claim 66 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. The rejection is respectfully traversed. Marek shows a box comprising various panels 12, 14, 20, 26, 28. There is no disclosure stating that any of them are hollow. Marek also fails to suggest any structure that extends "through an interior of said hollow wall portion." Since Marek does not disclose all of the features recited in claim 66, claim 66 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 66 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. The rejection is respectfully traversed.

Page 4 of the Office Action contends that the device shown in the Brochure has a hollow wall portion. Applicant respectfully disagrees. The device shown in the Brochure has a solid bottom base on top of which is a metal frame comprising some horizontal members that surround the container. Neither the base nor the metal frame may be considered to be a wall that is substantially hollow. Finally, no component of the SHARPSCART can be said to extend through an interior of a hollow wall portion. Therefore, claim 66 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 66 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan does not disclose that any of its walls is hollow or that any of its components extend through an interior of a hollow wall portion. Therefore, claim 66 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 72**

Claim 72 has been amended so that it recites, in part, "a carrier holding said container," "a body portion at least partially defining a cavity receiving the container," and "a hood coupled to the body portion and extending over at least a portion of the container." Claim 72 has also been amended to recite that the arm is "engaged to the door of the container and adapted to reciprocate the door of the container between the closed and opened positions." The amendment to claim 72 clarifies the relationship between the carrier and the container.

A. Marek

Claim 72 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Marek does not disclose a carrier holding a container, wherein an arm coupled to a hood of the carrier is engaged to a door of a container within the carrier, and wherein the arm is adapted to reciprocate the door of the container between closed and opened positions. Accordingly, amended claim 72 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 72 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. Page 4 of the Office Action contends that

"the hood comprises the stainless steel U-shaped bars which are bolted to the top of the carrier and the pivoting and sliding mechanism." The Office Action does not include, within the definition of the hood, the transverse bars extending over the opening. Instead, the Office Action contends that the transverse bars "are the arm coupled to the hood for reciprocal movement with respect to the hood." In this interpretation, the Brochure does not disclose "a hood. . .extending over at least a portion of the container." Accordingly, even adopting the interpretation of the SHARPCART Brochure proposed in the Office Action, amended claim 72 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPCART BROCHURE.

C. Sosan

Claim 72 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan does not disclose "a carrier holding said container"; or that the carrier has a "body portion at least partially defining a cavity receiving the container"; or that the carrier has "a hood coupled to the body portion and extending over at least a portion of the container." Additionally, Sosan fails to disclose or suggest that an arm coupled to a hood is engaged to the door of a container within a carrier and is adapted to reciprocate the door of the container between the closed and opened positions. Accordingly, amended claim 72 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 79**

Claim 79 has been amended so that it recites, in part, "a carrier receiving said container." It also now recites an "arm having a first portion coupled to the rotatable hood with a longitudinal axis substantially parallel to the reciprocal movement and a second portion angled with respect to the first portion and engaging a surface of the door."

A. Marek

Claim 79 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Marek does not disclose a container system as recited in amended claim 79. Specifically, flange 56 of Marek does not have a first portion coupled to a rotatable hood with a longitudinal axis substantially parallel to reciprocal movement. Flange 56 also does not have a second portion angled with respect to the first portion and engaging a surface of a door. Accordingly, amended claim 79 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 79 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. Page 4 of the Office Action contends that the arm recited in amended claim 79 may be considered to be "the transverse bars which extend over the opening." See also, pages 4-5 ("The arm has a first portion (the horizontally extending straight bar extending over the opening to the container) coupled to the rotatable hood.): Even accepting the interpretation of the SHARPSCART Brochure proposed in the Office Action, the transverse bars do not have "a longitudinal axis substantially parallel to the reciprocal movement." Accordingly, for at least the foregoing reasons, amended claim 79 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 79 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. The structure 46 of Sosan does not have a second portion, angled with respect to a first portion, and engaging a surface of a door of a container received in a carrier. Sosan fails even to suggest an arm coupled for reciprocal movement with respect to a rotatable hood of a carrier along an axis of the arm, wherein the arm has a first portion coupled to the rotatable hood with a longitudinal axis substantially parallel to its reciprocal movement and a second portion angled with respect to the first portion and engaging a surface of a door of a container received in the carrier when the rotatable hood is in a first position. Accordingly, amended claim 79 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 84**

Claim 84 has been amended to recite "a carrier holding said container"; "a body portion at least partially defining a cavity receiving the removable container"; "said hood covering at least a portion of the container, thereby inhibiting removal of the container"; and "a keyed lock for locking said hood in said first position."

A. Marek

Claim 84 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Marek does not teach or suggest a hood that is rotatable between first and second positions or a keyed

lock for locking a hood. Accordingly, amended claim 84 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 84 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. The Brochure does not disclose a keyed lock on a hood. Accordingly, amended claim 84 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 84 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan does not teach a keyed lock for locking a hood. In fact, on page 7, the Office Action acknowledges that Sosan does not disclose a lock. Accordingly, amended claim 84 is also not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 90**

Claim 90 has been amended to correct a typographical error. Specifically, the phrase "to inhibit removal of the carrier" has been changed to recite "to inhibit removal of the container." Claim 90 has also been amended to recite, in part, "a carrier holding said container"; "a hood covering at least a portion of the container and inhibiting removal of the container"; "a body portion receiving the container"; and a body portion "having at least one integral protruding surface positioned to inhibit removal of the container when the hood is in the first position." The amendment to claim 90 clarifies the relationship between the carrier and the container.

A. Marek

Claim 90 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Marek fails to disclose "at least one integral protruding surface positioned to inhibit removal of the container when the hood is in the first position." Accordingly, amended claim 90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 90 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. Page 4 of the Office Action contends that "the hood comprises the stainless steel U-shaped bars which are bolted to the top of the carrier and the pivoting and sliding mechanism." The Office Action does not include, within the definition of the hood, the transverse bars extending over the opening. Instead, the Office Action contends that the transverse bars "are the arm coupled to the hood for reciprocal movement with respect to the hood." Accordingly, based on the interpretation of the Brochure proposed in the Office Action, the Brochure does not disclose "a hood covering at least a portion of the container" and amended claim 90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. Although the right hand side of the device shown in the Brochure has a horizontal silver bar across the middle that may be used to inhibit removal of the container, it does not appear to be "integral" to the body as recited in claim 90. Accordingly, for this additional reason, amended claim 90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 90 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan fails to disclose "at least one integral protruding surface positioned to inhibit removal of the container when the hood is in the first position." Accordingly, amended claim 90 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 97**

Claim 97 has been amended to recite, in part, "a stop adjacent said hood and positioned to limit a range of movement of the rotatable hood."

A. Marek

Claim 97 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Marek does not disclose "a hood hinged to said body for rotation" or "a stop adjacent said hood and positioned to limit a range of movement of the rotatable hood." Accordingly, amended claim 97 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 97 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. Page 4 of the Office Action contends that "the hood comprises the stainless steel U-shaped bars which are bolted to the top of the carrier and the pivoting and sliding mechanism." The Office Action does not include, within the definition of the hood, the transverse bars extending over the opening. Instead, the Office Action contends that the transverse bars "are the arm coupled to the hood for reciprocal movement with respect to the hood." Accordingly, as interpreted in the Office Action, the Brochure does not disclose a hood "configured to cover at least a portion of the container" and amended claim 97 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

In addition, claim 97 now affirmatively recites that the hood is hinged to the body portion. In contrast, the SHARPSCART Foot Pedal Cart Order No. 8938FP, which is shown in the enlarged view on Page 16 of the Brochure, does not include a hinge. Accordingly, for this additional reason, amended claim 97 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

C. Sosan

Claim 97 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. There is no disclosure in Sosan of a "stop adjacent said hood." Accordingly, amended claim 97 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Claim 102**

Claim 102 has been amended so that it reads, in part: "a carrier holding said container"; "a body portion receiving the container, said body portion being formed from rotationally-molded plastic"; "a hood coupled to the body portion and extending over at least a portion of the container"; and an "arm engaging the door of the container, and said reciprocal movement of said arm reciprocating the door of the container."

A. Marek

Claim 102 has been rejected under 35 U.S.C. § 102(b) as anticipated by Marek. Flange 56 of Marek does not engage a door of a container that is held by a carrier and does not reciprocate the door of the container. Also, Marek fails to suggest a body portion formed from

rotationally-molded plastic. For all of the above reasons, amended claim 102 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Marek.

B. Brochure

Claim 102 has also been rejected under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure. The SHARPSCART Foot Pedal Cart Order No. 8938FP, which is shown in the enlarged view on Page 16 of the Brochure, fails to suggest a body portion formed from rotationally-molded plastic. Therefore, amended claim 102 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by an "on sale" bar based on page 16 of the SHARPSCART Brochure.

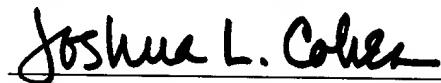
C. Sosan

Claim 102 has also been rejected under 35 U.S.C. § 102(b) as anticipated by Sosan. Sosan does not disclose an arm that engages the door of a container that is held by a carrier and does not disclose an arm that reciprocates the door of such a container. Therefore, amended claim 102 is not subject to rejection under 35 U.S.C. § 102(b) as anticipated by Sosan.

**Conclusion**

For the foregoing reasons, and in view of the amendments to the claims, it is respectfully submitted that this application is now in form for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,



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